

of the VMware Workstation User's Manual, while claims 5-8, 17-21 and 31 were rejected over Okamoto and VMware in view of Altman et al. (U.S. Patent Application Publication 2004/0054517). Applicant respectfully traverses these rejections.

In support of this position, Applicant submits herewith a Declaration under 37 CFR 1.132 by Dr. Guy Tel-Zur, who is a well-known expert in the field of high-performance computing. The Declaration explains in detail why the references that the Examiner has cited against the claims in the present patent application could not have led a person of ordinary skill in the art to make the claimed invention. To summarize briefly:

- VMware describes a virtual machine implementer that is explicitly designed to enable multiple virtual machines to run on a single computer, while dividing the computer resources among them. In contrast, the present patent application describes and claims aggregating computer resources over multiple independent computers in order to support a shared virtual machine. In view of this fundamental difference, a person of ordinary skill in the art would have been both unmotivated and unable to adapt the VMware system to create the claimed invention.
- A virtual machine, according to VMware, "is equivalent to a PC with a unique network address and a full complement of hardware devices." This definition is compatible with the present patent application and with accepted usage of the term. Okamoto does not mention or even hint at this sort of functionality, nor would his operating system (OS) be capable of supporting it. Therefore, the Examiner's identification of Okamoto's OS as a virtual machine

implementer is incompatible with how a person of ordinary skill in the art would have interpreted Okamoto.

Therefore, a person of ordinary skill in the art would not have been motivated to look to the cited references in order to create a virtual machine that is shared over multiple computers, as recited in the claims of the present patent application. Furthermore, the teachings of the cited references are insufficient to enable the person of ordinary skill to arrive at the claimed invention, in that they do not provide a solution to the technical problems inherent in creating such a shared virtual machine. Therefore, claims 1-45 are *prima facie* non-obvious over the cited art.

Moreover, the Examiner has failed to consider the secondary considerations brought out in the Declarations and supporting evidence that were submitted in response to the previous Official Action in this case. Although the cited references have changed, these same secondary considerations are equally pertinent as objective evidence of non-obviousness over the present rejection. As shown in the Declarations by Dr. Joseph Landman and Mr. Boaz Yehuda that were submitted previously, the invention defined by the claims in the present patent application, embodied in the vSMP product sold by ScaleMP (the assignee of the application), achieved unexpected results and answers a long-felt market need that could not be satisfied by prior art solutions. The product has been enthusiastically received by market leaders and customers and has recently been copied by a competing company. These points are supported by Exhibits attached to the Declarations.

Based on the secondary considerations that were explained by the Declarations, the invention recited in the claims of the present patent application is objectively non-obvious, notwithstanding the arguments above regarding the cited art.

To summarize, the Examiner has failed to make a case of *prima facie* obviousness against the claims in the present patent application, and such a case would in any event be outweighed by the objective evidence of non-obviousness that is presented in the Declarations. Therefore, all the claims in the present patent application are patentable over the cited art.

It is believed that the amendments and remarks presented hereinabove are fully responsive to all the grounds of rejection raised by the Examiner, and that the Application is now in order for allowance. Prompt notice to this effect is requested.

Respectfully submitted,



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